

REMARKS

Claims 20-35, 37 and 47-53 are pending, and claims 48-51 are withdrawn from consideration. Claims 20, 27, 33, 34, 47 and 49 have been amended to more particularly point out Applicant's claimed invention. Claim 36 is cancelled without prejudice, and new claim 53 has been added such that there is no net addition of claims after final rejection. The specification supports the amendment of claim 20, for example, at page 8, lines 1-2, page 11, lines 26-30, page 12, lines 7-8 and page 24, lines 25-31. Claim 27 is amended to correct the antecedent reference to independent claim 20. The specification supports the amendment of claim 28, for example, at page 35, lines 1-3. Claim 33 is amended to correct a typographical error and for consistency with amended claim 28. Claim 34 has been amended to incorporate the features of claim 36, which is correspondingly cancelled. The specification supports the amendment of claim 47, for example, at page 8, lines 1-2, page 11, lines 26-30 and page 24, lines 25-31. Claim 49 is amended for clarity and for consistency with claim 50, which depends from claim 49. The specification supports new claim 53, for example, at page 24, lines 28-29. No new matter is introduced by the amendments or the new claim.

In the Amendment of June 16, 2008, Applicant noted that claim 50 was covered under the elected species and should be considered. In the final Office Action, the Examiner noted that claim 50 depended from claim 49, and then the Examiner indicated that claim 49 was directed to the species of Figs. 9A and 9B, which is withdrawn from configuration. The Examiner was correct to note that claim 50 depends from claim 49, and upon reviewing claim 49, Applicant realized that claim 49 was not clear. Claim 49 has been amended for clarity and for consistency with claim 50. Based on the clarification of claim 49, both claims 49 and 50 are directed to the elected species. Figs. 8A and 8B are directed to a catheter (Fig. 8A) having surface capillary fibers along the inner surface 8(B). Thus, both claims 49 (catheter) and 50 (surface capillaries

along the inner surface of the catheter) are directed to the elected species, and Applicant respectfully requests examination of both claim 49 and 50.

#### Claim Objections

The Examiner objected to claims 27 and 31-33 based on particular informalities. Claim 27 has been amended to correct the antecedent reference. In view of the amendment to independent claim 28, the antecedent reference in claim 31 is now correct. Claim 33 has been amended to correct the typographical error. Applicant thanks the Examiner for a careful reading of the claims. In view of these amendments, Applicant respectfully requests withdrawal of the objection to the claims.

#### Rejection Under 35 U.S.C. § 102

The Examiner rejected claims 20, 25-31, 33-37 and 47 under 35 U.S.C. § 102(b) as being anticipated by U.S. patent 6,350,253 to Deniega et al. (Deniega). The Examiner pointed to element (54) of Deniega as a SCF fiber. While Applicant maintains that Deniega clearly does not anticipate Applicant's invention as previously claimed, Applicant has amended the claims to more particularly point out Applicant's claimed invention. Applicant respectfully requests reconsideration of the rejection based on the following comments.

Applicant respectfully maintains that element 54 cannot be interpreted reasonably as a surface capillary fiber based on the perspective of a person of ordinary skill in the art based on the teachings in Applicant's disclosure. Nevertheless, Applicant has amended independent claims 20, 28, 34 and 47 to more particularly point out Applicant's claimed invention. With respect to claims 20 and 47, Deniega does not teach the elution of a bioactive agent from a surface capillary fiber or a surface capillary fiber with the presently claimed structure. With respect to claim 28, Deniega does not teach association of a plurality of surface capillary fibers

with the surface of a tubular substrate with an adhesive or chemical bonding. With respect to claim 34, Deniega does not teach a medical device contoured to match a portion of a structure within a patient. Applicant notes that blood vessels are not strictly cylindrical and that the catheters taught in Deniega are designed to be significantly narrower than corresponding blood vessels. The claims depending from these independent claims are patentable for the same reasons.

Since, Deniega does not teach all of the elements of Applicant's claimed invention, Deniega does not anticipate Applicant's claimed invention. While Applicant does not acquiesce with the assertions regarding the other specific features of the dependent claims, these issues are moot in view of the deficiencies of Deniega noted above. Applicant respectfully requests withdrawal of the rejection of claims 20, 25-31, 33-37 and 47 under 35 U.S.C. § 102(b) as being anticipated by Deniega.

#### Rejections Over Deniega and DiCarlo

The Examiner rejected claims 21, 22, 24, 25, 32 and 52 under 35 U.S.C. § 103(a) as being unpatentable over Deniega in view of U.S. patent 6,929,626 to DiCarlo et al. (DiCarlo). To advance prosecution, Applicant has amended independent claims 20, 28 and 47. As noted above, Deniega does not teach all of the elements of the independent claims. With all due respect, Applicant maintains that DiCarlo does not make up for the deficiencies of Deniega. The combined teachings of Deniega and DiCarlo do not render Applicant's claimed invention *prima facie* obvious. Applicant respectfully requests reconsideration of the rejection in view of the following comments.

As noted above, Applicant maintains that Deniega does not teach surface capillary fibers or the elution of a drug from the surface capillary fiber. With respect to the claims depending from claims 20 and 47, Applicant has amended the independent claims to indicate more

specifically characteristics of the surface capillary fibers. The Examiner asserted that DiCarlo discloses surface capillary fibers at elements 18 and 22. To advance prosecution, Applicant has further defined the scope of surface capillary fibers. In particular, independent claims 21 and 47 specify that the surface capillary runs substantially parallel to the length of the fiber along its surface. As clarified with respect to the nature of the surface capillary fibers, it is clear that DiCarlo does not teach a surface capillary fiber with a surface capillary substantially parallel to the length of the fiber. Similarly, Deniega does not teach surface capillary fibers with the presently specified characteristics. Therefore, neither Deniega nor DiCarlo teaches surface capillary fibers as presently specified.

With respect to claim 32, independent claim 28 has been amended to indicate that the surface capillary fibers are associated with the surface of the tubular structure with an adhesive or with chemical bonding. DiCarlo does not teach or suggest association of surface capillary fibers with the surface of a tubular structure using an adhesive or chemical bonding. Therefore, the cited references alone or combined do not teach this feature of claim 28.

Since the references alone or combined do not teach all of the elements of the claims, the combined teachings of the references do not render Applicant's claimed invention *prima facie* obvious. Applicant respectfully requests withdrawal of the rejection of claims 21, 22, 24, 25, 32 and 52 under 35 U.S.C. § 103(a) as being unpatentable over Deniega in view of DiCarlo. While Applicant does not acquiesce in the particular assertions relating to the features of the dependent claims, Applicant does not presently comment on these issues since they are moot in view of the deficiencies discussed in detail above.

#### Rejection Over Deniega and Samson

The Examiner rejected claim 23 under 35 U.S.C. § 103(a) as being unpatentable over Deniega in view of U.S. patent 6,066,149 to Samson et al. (Samson). As noted above, Deniega

does not teach or suggest all of the features of independent claim 20. Similarly, Samson does not teach or suggest surface capillary fibers or elution of a bioactive agent from a surface capillary fiber. Since the combined teachings of the references do not teach all of the features of the claims, the combined teachings of Deniega and Samson do not render the claimed invention *prima facie* obvious. Applicant respectfully requests withdrawal of the rejection of claim 23 under 35 U.S.C. § 103(a) as being unpatentable over Deniega in view of Samson.

#### CONCLUSIONS

In view of the foregoing, it is submitted that this application is in condition for allowance. Favorable consideration and prompt allowance of the application are respectfully requested.

The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,

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